

### REMARKS

Applicant has amended Claim 16 in response to the Office Action. Also, new claims 22-23 have been added to depend from claim 16. The subject matter of the new claims is essentially the subject matter from the previous claim 16. Applicant respectfully requests entry of this Amendment because it overcomes the Section 112 rejections, and in view of the remarks below, places the subject application in condition of allowance.

#### Section 102 Rejections

According to the Office Action claims 15-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,918,604 to Whelan (hereafter referred to as "Whelan").

Applicant respectfully disagrees and requests reconsideration. It is well established that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 *citing* *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Claim 15 recites a claim limitation that is not found in the cited reference. In particular, claim 15 recites in the "passing step" that a part of the head section of a transverse suspension device contacts an opposite wall of the femoral tunnel. Whelan does not disclose this claim limitation because Whelan describes creating a transverse tunnel that intersects and extends through the femoral tunnel. The distal end of the implant in Whelan is then inserted through and out of the femoral tunnel. Notably, the distal end or head of the Whelan device does not contact the opposite wall of the femoral tunnel because it is positioned beyond the femoral tunnel altogether. See figure 16.

In contrast, Claim 15 of the subject application recites that the head of the transverse suspension device contacts an opposite wall of the femoral tunnel. Whelan, as indicated above, does not disclose this claim limitation.

The other claims rejected in the above rejection depend from claim 15 or a claim depending thereon. Based on the foregoing, reconsideration and withdrawal of the rejection of claims 15-20 under Section 102 is requested.

Additionally, the Office Action indicates that claim 21 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,601,562 to Wolf (hereafter referred to as

"Wolf").

Claim 21 recites a claim limitation that is not found in the cited reference. In particular, Claim 21 recites that the suspension device includes an abutment surface adapted to press the graft against the opposite wall. Nowhere in Wolf is this claim limitation disclosed. As shown in Figure 1 of Wolf, the graft is supported by the implant (4) but the graft is not pushed or urged against an opposite wall by an abutment surface. Based on the foregoing, Applicant requests reconsideration and withdrawal of the rejection of Claim 21 over Wolf.

Section 103 Rejections.

As indicated above Whelan does not teach all claim limitations recited in amended claim 15. A proper *prima facie* case of obviousness under Section 103 requires, amongst other things, that the reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2142. In this instance, the cited reference does not teach placing a head section of the suspension device through the loop until the head section contacts the opposite wall of the femoral tunnel. For at least this reason, Whelan does not teach or suggest all claim limitations found in claim 15 and the claims depending thereon.

The other references being applied under Section 103 rejections do not make up for the shortcomings identified above in connection with Whelan. Accordingly reconsideration and withdrawal of all the rejections under Section 103 are respectfully requested.

Applicant has made a sincere effort to respond to all issues raised in the Office Action. Applicant submits the case is now in condition of allowance. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (408) 736-0224.

Respectfully submitted,



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